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INTERSTATE COMMERCE COMMISSION

# **PITTSBURGH AND LAKE ERIE RAILROAD**

**EQUIPMENT TRUST, SERIES 1970 A**

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## **Equipment Trust Agreement**

*Dated as of November 15, 1970*

**BETWEEN**

**THE FIRST PENNSYLVANIA BANKING  
AND TRUST COMPANY,**

**TRUSTEE,**

**AND**

**THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY**

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## TABLE OF CONTENTS

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	PAGE
ARTICLE I. Definitions .....	11
ARTICLE II. Trust Certificates and Issuance Thereof .....	14
ARTICLE III. Acquisition of Trust Equipment by Trustee; Deposited Cash .....	19
ARTICLE IV. Lease of Trust Equipment to the Company .....	22
ARTICLE V. Remedies in Event of Default .....	32
ARTICLE VI. Additional Covenants and Agree- ments by the Company .....	39
ARTICLE VII. The Trustee .....	42
ARTICLE VIII. Miscellaneous .....	49

THIS EQUIPMENT TRUST AGREEMENT, dated as of November 15, 1970, between THE FIRST PENNSYLVANIA BANKING AND TRUST COMPANY, a corporation organized under the banking laws of the Commonwealth of Pennsylvania, as Trustee, and THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the "Company"):

WITNESSETH:

WHEREAS, the Company intends to cause to be sold, transferred and delivered to the Trustee the railroad equipment described herein; and

WHEREAS, title to such railroad equipment is to be vested in and is to be retained by the Trustee, and such railroad equipment is to be leased to the Company hereunder until title is transferred in accordance with the provisions hereof; and

WHEREAS, Trust Certificates (to be known as "Pittsburgh and Lake Erie Railroad Equipment Trust, Series 1970 A, 91 $\frac{1}{4}$ % Equipment Trust Certificates"), are to be issued and sold in an aggregate principal amount not exceeding \$6,000,000, and the net proceeds of such sale together with such other cash, if any, as may be required to be deposited by the Company with the Trustee as hereinafter provided is to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold, to be applied by the Trustee from time to time in part payment of the purchase price of such railroad equipment, and the remainder of the cost thereof to be discharged out of advance rentals to be paid by the Company to the Trustee as provided herein; and

WHEREAS, the texts of the Trust Certificates, the dividend warrants and the guaranty to be endorsed thereon by the Company are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATE WITH DIVIDEND WARRANTS]

\$1,000

\$1,000

**PITTSBURGH AND LAKE ERIE RAILROAD  
EQUIPMENT TRUST, SERIES 1970 A,**

**9 $\frac{1}{4}$ % EQUIPMENT TRUST CERTIFICATE.**

**TOTAL ISSUE—\$6,000,000.**

No. ....

No. ....

**Dividends at the Rate of Nine and One-Quarter  
Per Cent Per Annum**

**Payable May 15 and November 15.**

**The First Pennsylvania Banking  
and Trust Company, Trustee.**

**Principal hereof Payable November 15, 19....**

The First Pennsylvania Banking and Trust Company, Trustee under an Equipment Trust Agreement dated as of November 15, 1970, between The First Pennsylvania Banking and Trust Company and The Pittsburgh and Lake Erie Railroad Company (hereinafter referred to as the "Company"), hereby certifies that the bearer, or, if this certificate be registered as to principal, the registered holder hereof, is entitled to an interest in the principal amount of One Thousand Dollars (\$1,000) in the Pittsburgh and Lake Erie Railroad Equipment Trust, Series 1970 A, and, as hereinafter more fully provided, is entitled to the payment of said principal on November 15, 19.., upon surrender of this certificate to said Trustee at its principal office in the City of Philadelphia, Pennsylvania, or at the option of the bearer or registered holder, as the case may be, at the office of the Company, the duly appointed agent of the undersigned, in the City of Pittsburgh, Pennsylvania, and to payment, until said last mentioned date, of dividends on said principal amount at the rate of nine and one-

quarter per cent ( $9\frac{1}{4}\%$ ) per annum from November 15, 1970, semiannually on May 15 and November 15, in each year, according to the tenor of the dividend warrants hereto annexed, upon presentation and surrender of such warrants, as they severally mature, to said Trustee at said office in Philadelphia, Pennsylvania, or at the option of the bearer at said office of the Company in Pittsburgh with interest at the dividend warrant rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable; both the principal of this certificate and the dividends thereon being payable at either of said offices in lawful money of the United States of America, but only from and out of rentals received by said Trustee for the purpose of such payments pursuant to the provisions of said agreement dated as of November 15, 1970, or from and out of other moneys received by said Trustee for the purpose of such payments as provided in said agreement.

This certificate is one of an issue of certificates having an aggregate principal amount of six million dollars (\$6,000,000), all issued or to be issued under and subject to the terms of said agreement under which certain railroad equipment leased to the Company (or Deposited Cash and other cash or obligations, defined in said agreement as "Government Securities", in lieu thereof, as provided in said agreement) is held by said Trustee in trust for the equal benefit of the holders of the interests represented by said certificates, to which agreement, filed with said Trustee, at its said office, reference is made for a full statement respecting the terms and conditions governing the issuance of this certificate, the rights and obligations of the Company, the duties and immunities of said Trustee and the rights of the holder hereof thereunder.

The certificates are issuable as bearer certificates with dividend warrants attached, registerable as to

principal amount, in the denomination of \$1,000, and as fully registered certificates in the denominations of \$1,000 and any multiple of \$1,000. The certificates with dividend warrants and the fully registered certificates and the several denominations of fully registered certificates are interchangeable without cost upon presentation thereof to said Trustee at its said office or to the Company at its said office, but only in the manner and subject to the limitations provided in said agreement.

This certificate may be registered as to principal on the books of said Trustee at its said office in Philadelphia, Pennsylvania, in the name of the holder hereof, and such registration shall be noted hereon (and for this purpose, this certificate may be surrendered at said office of the Company in Pittsburgh, Pennsylvania). Thereafter title hereto shall pass only by transfer so registered on the books of said Trustee unless and until a transfer to bearer shall have been so registered and noted hereon, whereupon transferability by delivery shall be restored. Such registration shall apply only to the principal of this certificate and not to its dividend warrants hereunto attached, which shall continue to be payable to bearer and transferable by delivery.

Every taker and holder of this certificate and of the appurtenant dividend warrants, by accepting the same, agrees with said Trustee, with the Company, and with every subsequent taker and holder hereof and thereof, that this certificate (unless registered as to principal in the name of the holder) and such warrants shall be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery by any person having possession of the same, respectively, howsoever such possession may have been acquired, and that said Trustee and the Company may treat the bearer of this certificate, or

the registered holder hereof if this certificate be registered as to principal as above provided, and the bearer of any dividend warrant attached hereto whether or not this certificate be so registered, as the absolute owner of this certificate or of said warrant, as the case may be, for all purposes, and that said Trustee shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of the Company in said agreement contained, the principal amount represented by this certificate may be declared due and payable in the manner and with the effect provided in said agreement.

IN WITNESS WHEREOF, said Trustee has caused this certificate to be signed by one of its Vice-Presidents by a facsimile of his signature and its corporate seal to be hereunto affixed, or a facsimile thereof to be printed or engraved hereon, and to be attested by its Secretary or one of its Assistant Secretaries, and dividend warrants, bearing the facsimile signature of one of its Vice-Presidents, to be attached hereto, as of the fifteenth day of November, 1970.

THE FIRST PENNSYLVANIA BANKING  
AND TRUST COMPANY,  
*Trustee,*

By .....  
*Vice-President.*

Attest:

.....  
*Assistant Secretary.*

[FORM OF DIVIDEND WARRANT FOR TRUST CERTIFICATE  
WITH DIVIDEND WARRANTS]

No. .... \$.....

Due to the bearer hereof on the fifteenth day of ....., 19..., on surrender hereof to the undersigned Trustee at its principal office in the City of Philadelphia, Pennsylvania, or at the option of the bearer at the office of The Pittsburgh and Lake Erie Railroad Company, the duly appointed agent of the undersigned, in the City of Pittsburgh, Pennsylvania, Forty-six and 25/100 Dollars (\$46.25), payable in lawful money of the United States of America, being the semiannual dividend then due on Certificate No. .... of PITTSBURGH AND LAKE ERIE RAILROAD EQUIPMENT TRUST, SERIES 1970 A, payable only out of rentals or other moneys received by the undersigned Trustee pursuant to the agreement dated as of November 15, 1970, referred to in said certificate, and as therein provided.

THE FIRST PENNSYLVANIA BANKING  
AND TRUST COMPANY,  
*Trustee,*

By .....  
*Vice-President.*

[FORM OF GUARANTY FOR TRUST CERTIFICATE WITH  
DIVIDEND WARRANTS]

THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, for valuable consideration, hereby unconditionally guarantees to the bearer, or, if registered as to principal, to the registered holder of the within certificate, the prompt payment of the principal amount of the within certificate, and to the bearer of any of the appurtenant dividend warrants the prompt pay-



ment of the dividend specified in such warrant, in accordance with the terms of said certificate and the agreement referred to therein.

Dated: November 15, 1970.

THE PITTSBURGH AND LAKE ERIE RAILROAD  
COMPANY,

By

*President.*

[FORM OF FULLY REGISTERED TRUST CERTIFICATE]

\$.....

No. R

PITTSBURGH AND LAKE ERIE RAILROAD

EQUIPMENT TRUST, SERIES 1970 A,

91  $\frac{1}{4}$  % EQUIPMENT TRUST CERTIFICATE.

Total Issue—\$6,000,000.

Dividends at the Rate of Nine and One-Quarter  
Per Cent Per Annum

Payable May 15 and November 15.

THE FIRST PENNSYLVANIA BANKING AND  
TRUST COMPANY, Trustee.

Principal hereof Payable November 15, 19..

The First Pennsylvania Banking and Trust Company, Trustee under an agreement dated as of November 15, 1970, between The First Pennsylvania Banking and Trust Company and The Pittsburgh and Lake Erie Railroad Company (hereinafter referred to as the "Company"), hereby certifies that ..... or registered assigns, is entitled to an interest in the principal amount of \$..... in the Pittsburgh and Lake Erie Railroad Equipment Trust, Series 1970 A, and, as hereinafter more fully provided, is entitled to the payment of said principal on November 15, 19.., upon surrender of this certificate to said Trustee at its principal office in the

City of Philadelphia, Pennsylvania, or at the option of the registered holder, at the office of the Company, the duly appointed agent of the undersigned, in the City of Pittsburgh, Pennsylvania, and to payment until said last mentioned date, of dividends on said principal at the rate of nine and one-quarter per cent ( $9\frac{1}{4}\%$ ) per annum from the date hereof, semi-annually on May 15 and November 15, in each year by check mailed by the Trustee to the order of such person, or registered assigns, at such person's or assignee's address as shown on the books of the Trustee with interest at said dividend rate on any unpaid principal and on any unpaid dividends to the extent that it shall be legally enforceable; both the principal amount of this certificate and the dividends thereon being payable in lawful money of the United States of America, but only from and out of rentals received by said Trustee for the purpose of such payments pursuant to the provisions of said agreement dated as of November 15, 1970, or from and out of other moneys received by said Trustee for the purpose of such payments as provided in said agreement.

This certificate is one of an issue of six million dollars (\$6,000,000) aggregate principal amount of certificates, all issued or to be issued under and subject to the terms of said agreement, under which certain railroad equipment leased to the Company (or Deposited Cash and other cash or obligations defined in said agreement as "Government Securities" in lieu thereof, as provided in said agreement) is held by said Trustee in trust for the equal benefit of the holders of the interests represented by said certificates, to which agreement, filed with said Trustee at its said office, reference is made for a full statement respecting the terms and conditions governing the issuance of this certificate, the rights and obligations of the Company, the duties and immunities of said Trustee, and the rights of the holder hereof thereunder.

The certificates are issuable as bearer certificates with dividend warrants attached, registerable as to principal, in the denomination of \$1,000, and as fully registered certificates in the denominations of \$1,000 and any multiple of \$1,000. The certificates with dividend warrants and the fully registered certificates and the several denominations of fully registered certificates are interchangeable without cost upon presentation thereof to said Trustee at its said office or to the Company at its said office, but only in the manner and subject to the limitations provided in said agreement.

This certificate is transferable by the registered holder hereof in person or by duly authorized attorney, on the books of said Trustee at its said office in the City of Philadelphia, Pennsylvania, upon surrender hereof to said Trustee at its said office, or to the Company at its said office in Pittsburgh, Pennsylvania, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder hereof in person or by such attorney, in form satisfactory to said Trustee, and thereupon a new fully registered certificate or certificates in authorized denominations for the same aggregate principal amount and having the same date of maturity as this certificate will be issued to the transferee in exchange herefor. Said Trustee and the Company shall be entitled to treat the registered holder hereof as the absolute owner hereof for all purposes, and shall not be affected by any notice to the contrary.

In case of default in the performance or observance of any of the covenants of the Company in said agreement contained, the principal represented by this certificate may be declared due and payable in the manner and with the effect provided in said agreement.

IN WITNESS WHEREOF, said Trustee has caused this certificate to be signed by one of its Vice-

Presidents by a facsimile of his signature and its corporate seal to be hereunto affixed or a facsimile thereof to be printed or engraved hereon and to be attested by its Secretary or one of its Assistant Secretaries, as of the                      day of                      .

THE FIRST PENNSYLVANIA BANKING  
AND TRUST COMPANY,  
*Trustee,*

By .....

Attest: *Vice-President.*

.....  
*Assistant Secretary.*

[FORM OF GUARANTY FOR FULLY REGISTERED  
TRUST CERTIFICATE]

THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY, for valuable consideration, hereby unconditionally guarantees to the registered holder of the within certificate the prompt payment of the principal amount of said certificate, and of dividends thereon at the dividend rate specified therein on the semi-annual dates specified in said certificate, in accordance with the terms of said certificate and the agreement referred to therein.

Dated November 15, 1970.

THE PITTSBURGH AND LAKE ERIE RAILROAD  
COMPANY,

By  
*President.*

WHEREAS, it is desired to secure to the holders of the Trust Certificates the payment of the principal thereof in ten (10) equal annual installments payable serially on

November 15 in each year beginning November 15, 1971 and ending November 15, 1980, both inclusive, as herein-after more particularly provided, with dividends to said dates of maturity, respectively, at the rate of nine and one-quarter per cent ( $9\frac{1}{4}\%$ ) per annum from November 15, 1970, payable semiannually on May 15 and November 15 in each year, commencing on May 15, 1971, and to evidence the rights of the holders of the Trust Certificates in substantially the forms hereinbefore set forth;

Now, therefore, in consideration of the mutual covenants and promises herein contained, the parties hereto hereby covenant and agree as follows:

## ARTICLE I.

### DEFINITIONS.

For all purposes of this Agreement, unless the context otherwise requires:

*Company* shall mean The Pittsburgh and Lake Erie Railroad Company, its successors or assigns.

*Cost*, when used with respect to Trust Equipment, shall mean the actual cost thereof, and shall include only such items as may properly be included in such cost under the Interstate Commerce Commission's Uniform System of Accounts for Railroad Companies, as in effect at the time in question, or the accounting rules of such other Federal governmental authority having jurisdiction over the accounts of the Company, or to the extent not determined thereby or in case there be no such accounting rules of the Interstate Commerce Commission or other Federal authority in effect at such time, in accordance with sound accounting practice. In the case of the Trust Equipment described in Schedules A and B to this Agreement the Cost thereof appears in said Schedules.

*Deposited Cash* shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.1 hereof, (b) any advance rentals on deposit with the Trustee pursuant to Section 4.4(A)(1)

hereof, (c) any sums restored to Deposited Cash from rentals pursuant to Section 4.4(B)(1) hereof and on deposit with the Trustee and (d) when required or indicated by the context, any Government Securities purchased by the use of Deposited Cash pursuant to the provisions of Section 7.8 hereof and held by the Trustee.

*Equipment* shall mean standard-gauge railroad equipment (other than passenger or work equipment) which shall have been rebuilt during the period March 1, 1970 through October 31, 1970.

The *Fair Value* of any unit of Trust Equipment shall be considered to be the Cost thereof less depreciation accrued on such unit computed by (i) the straight-line method at the rate of 5% of the Cost thereof for each year or (ii) such method and at the rate or rates permitted at the time by the rules and regulations of the Interstate Commerce Commission applicable to such unit, whichever computation results in the greater amount of depreciation, from the date such unit became part of the Trust Equipment to the date on which the value is to be determined.

*Government Securities* shall mean bonds, notes or other direct obligations of the United States of America or obligations for which the faith of the United States is pledged to provide for the payment of the interest and principal.

The word *holder*, when used with respect to Trust Certificates, shall include the plural as well as the singular number and, unless otherwise indicated by the context, shall mean and include the bearer of a Trust Certificate with dividend warrants not registered as to principal, the bearer of a dividend warrant, the registered owner of a Trust Certificate with dividend warrants registered as to principal, and the registered owner of a fully registered Trust Certificate.

*Officer's Certificate* shall mean a certificate signed by the President, a Vice-President, the Treasurer or an Assistant Treasurer of the Company.

*Opinion of Counsel* shall mean an opinion of counsel (who may be counsel to the Company) satisfactory to the Trustee.

*Owner* shall mean the persons or corporation transferring title to any of the Equipment to the Trustee.

The *principal office of the Trustee* or other similar term shall mean the office of the Trustee in the City of Philadelphia, Pennsylvania, where, at any particular time, its principal corporate trust business shall be administered.

*Request* shall mean a written request by the Company for the action therein specified, signed on behalf of the Company by the President, a Vice-President, the Treasurer or an Assistant Treasurer of the Company.

*Subsidiary* of the Company shall mean any corporation which, directly or indirectly, is controlled by the Company. For the purposes of this definition, *controlled by*, as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or by contract or otherwise.

*Trust Certificates* shall mean Pittsburgh and Lake Erie Railroad Equipment Trust, Series 1970 A, 9<sup>1</sup>/<sub>4</sub>% Equipment Trust Certificates, issued hereunder, and *dividend warrants* shall mean dividend warrants attached or appertaining to Trust Certificates.

*Trust Equipment* shall mean all Equipment at the time subject to the terms of this Agreement or any supplements hereto or required or intended so to be.

*Trustee* shall mean The First Pennsylvania Banking and Trust Company and any successor as trustee hereunder.

All references herein to *Articles, Sections* and other subdivisions refer to the corresponding Articles, Sections and other subdivisions of this Agreement; and the words, *herein, hereof, hereby, hereto, hereunder* and words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

## ARTICLE II.

### TRUST CERTIFICATES AND ISSUANCE THEREOF.

SECTION 2.1. The net proceeds (excluding premium and accrued dividends, if any) of the sale of the Trust Certificates shall forthwith upon issuance thereof be deposited in cash with the Trustee, and at the same time the Company shall, if necessary, deposit with the Trustee any advance rental payable by the Company to the Trustee under Section 4.4(A)(1) hereof. Thereupon, without waiting for the filing, recording, registering or depositing of this Agreement or of any other instrument respecting the Trust Equipment, the Trustee shall execute, issue and deliver, as the Company shall direct by Request, Trust Certificates substantially in the forms set forth herein and in the aggregate principal amount of \$6,000,000. Any premiums and accrued dividends received upon the sale of the Trust Certificates shall forthwith be paid to the Company.

SECTION 2.2. Each of the Trust Certificates shall represent an interest in the principal amount stated thereon in the trust created hereunder and shall bear dividends on said principal at the rate of  $9\frac{1}{4}\%$  per annum from November 15, 1970, payable semi annually on May 15 and November 15 in each year commencing May 15, 1971.

The aggregate principal amount of Trust Certificates which shall be executed, issued and delivered by the Trustee shall not exceed the sum of \$6,000,000. The due date of each Trust Certificate shall appear upon its face, together with



such numbers, descriptions or identifications as the Trustee may determine.

The principal amount of the Trust Certificates shall become due in ten (10) equal annual installments, payable on the 15th day of November in each year beginning November 15, 1971 and ending November 15, 1980. Dividend warrants evidencing the rights of the bearers thereof to the dividends on the Trust Certificates with the dividend warrants shall be annexed to such Trust Certificates with dividend warrants.

SECTION 2.3. The Trust Certificates, the dividend warrants, and the guaranty to be endorsed on the Trust Certificates by the Company as hereinafter in Section 6.2 hereof provided shall be in substantially the forms hereinbefore set forth.

SECTION 2.4. The Trust Certificates shall be executed in the name and on behalf of the Trustee by one of its Vice-Presidents (whose signature may be in facsimile) under its corporate seal (which may be in facsimile) attested by its Secretary or one of its Assistant Secretaries. The dividend warrants to be attached to the Trust Certificates with dividend warrants shall be authenticated by the facsimile signature of any person who is then a Vice-President of the Trustee. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any of the Trust Certificates or on the dividend warrants shall cease to be such officer of the Trustee before such Trust Certificates or dividend warrants shall have been issued and delivered by the Trustee, or shall not have been such officer on the date of the Trust Certificates or dividend warrants, such Trust Certificates and dividend warrants shall be deemed to be adopted by the Trustee and shall be issued and delivered as though such person had not ceased to be such officer of the Trustee. Before executing, issuing or delivering any Trust Certificate the Trustee shall detach and cancel all matured dividend warrants thereto appertaining except as otherwise provided in Section 2.6 hereof.

SECTION 2.5. The Trust Certificates with dividend warrants shall be in the denominations of \$1,000 each; shall be payable to bearer, shall be negotiable and transferable by delivery unless registered as to principal in the manner provided; and shall be dated as of November 15, 1970.

The registered Trust Certificates shall be in the denominations of \$1,000, or any multiple thereof; shall be registered as to both principal and dividends in the name of the holder; shall be transferable upon presentation and surrender thereof for transfer at the principal office of the Trustee in the City of Philadelphia, Pennsylvania, or at the office of the Company in the City of Pittsburgh, Pennsylvania, accompanied by appropriate instruments of assignment and transfer in form satisfactory to the Trustee, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney; and shall be dated as of November 15, 1970, or the dividend payment date to which dividends shall have been paid, next preceding or coinciding with the date of issue, whichever is later, and shall bear dividends from the date thereof.

Fully registered Trust Certificates may be exchanged without cost for a like aggregate principal amount of Trust Certificates with dividend warrants of the same maturity having all unmatured dividend warrants attached, or for a like aggregate principal amount of fully registered Trust Certificates of the same maturity in authorized denominations, and Trust Certificates with dividend warrants may be exchanged for a like aggregate principal amount of fully registered Trust Certificates of the same maturity in authorized denominations. The Trust Certificates to be exchanged shall be surrendered at said office of the Trustee in the City of Philadelphia, Pennsylvania, or at said office of the Company in the City of Pittsburgh, Pennsylvania. All Trust Certificates with dividend warrants surrendered for exchange shall have attached all unmatured dividend warrants appertaining thereto, and, in case at the time of any such exchange, dividends on the Trust Certificates are in default, they shall in addition have attached all matured

dividend warrants in default appertaining thereto. Any of the Trust Certificates with dividend warrants may be registered as to the principal amount thereof in the name of the holder at said office of the Trustee in the City of Philadelphia, Pennsylvania, and such registration shall be noted on the Trust Certificate by or on behalf of the Trustee. Thereafter no transfer thereof shall be valid unless made at said office by the registered holder thereof in person, or by his duly authorized attorney, and similarly noted thereon; but the same may be discharged from registration and transferred to bearer as before. For purposes of such registration, transfer or discharge from registration, any of the Trust Certificates may be surrendered, at the option of the holder, at said office of the Company in the City of Pittsburgh, Pennsylvania. No registration, however, shall affect the dividend warrants, but every such dividend warrant shall continue to be transferable with the same effect as in the case of a negotiable instrument payable to bearer, by delivery thereof by any person in possession of the same, howsoever such possession may have been acquired.

Anything to the contrary herein notwithstanding, the parties hereto may deem and treat (i) the bearer of any Trust Certificate not registered as to principal and the bearer of any dividend warrant as the absolute owner of such Trust Certificate or dividend warrant, as the case may be, for the purpose of receiving payment thereof and for all other purposes, and shall not be affected by any notice to the contrary and (ii) the registered holder of any fully registered Trust Certificate or of any Trust Certificate with dividend warrants registered as to principal, as the case may be, as the absolute owner of such Trust Certificate for all purposes (except payment of dividends in the case of Trust Certificates with dividend warrants registered as to principal), and shall not be affected by any notice to the contrary.

For any registration, transfer, exchange or discharge from registration the Trustee shall require the payment of a sum sufficient to cover reimbursement for any stamp tax or other governmental charge connected therewith.

The Trustee shall not be required to issue, register, transfer or exchange Trust Certificates for a period of ten days next preceding any dividend payment date.

SECTION 2.6. In case any Trust Certificate, or the dividend warrants, if any, thereto appertaining, shall become mutilated or defaced or be lost, stolen or destroyed, then on the terms herein set forth, and not otherwise, the Trustee shall, upon Request, execute and deliver a new fully registered Trust Certificate or a Trust Certificate with dividend warrants, as the case may be, with, if a Trust Certificate with dividend warrants, all unmatured and all matured but unpaid dividend warrants appurtenant thereto, of like maturity, tenor and date, and bearing such number, designation, or other mark of identification as the Trustee may determine or, in the case of a dividend warrant, a new dividend warrant of like due date and tenor, as the one mutilated, defaced, lost, stolen or destroyed, in exchange and substitution for, and upon cancellation of, the mutilated or defaced Trust Certificate and dividend warrants, as the case may be, or in lieu of or in substitution for the same if lost, stolen or destroyed. The Company shall execute its guaranty on any Trust Certificates so delivered. The applicant for a new Trust Certificate or dividend warrant shall furnish to the Trustee and to the Company evidence to their satisfaction of the mutilation, defacement, loss, theft or destruction of such Trust Certificate (including all unpaid dividend warrants appurtenant thereto) and dividend warrants, as the case may be, alleged to have been mutilated, defaced, lost, stolen or destroyed, and of the ownership and authenticity of such mutilated, defaced, lost, stolen or destroyed Trust Certificate and dividend warrants, and also such security and indemnity as may be required by the Trustee and by the Company, in their discretion; and shall pay all expenses and charges of such substitution or exchange. All Trust Certificates shall be issued, held and owned upon the express condition that the foregoing provisions are exclu-

sive in respect of the replacement of mutilated, defaced, lost, stolen or destroyed Trust Certificates and dividend warrants, and shall preclude any and all other rights and remedies, any law or statute now existing or hereafter enacted to the contrary notwithstanding.

SECTION 2.7. The Company hereby agrees to pay the principal and the dividends from time to time becoming payable on any of the Trust Certificates which shall be presented for the purpose of such payment at the office of the Company in Pittsburgh, Pennsylvania. The Trustee will reimburse the Company on its Request upon receipt of satisfactory evidence of payment, for any payments so made out of the rent received by the Trustee pursuant to Section 4.4(B)(3) or Section 4.4(B)(4) hereof, as the case may be.

### ARTICLE III.

#### ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH.

SECTION 3.1. The Company, as speedily as may be, will cause to be sold, assigned, transferred and set over unto the Trustee, as trustee for the holders of the Trust Certificates and dividend warrants, all the Equipment described in Schedules A and B hereto, all of which the Company represents and warrants is Equipment as herein defined. Such Equipment shall be delivered to the Company which is hereby designated by the Trustee as its agent to receive such delivery, and an Officer's Certificate as to such delivery shall be conclusive evidence of such delivery.

In case additional or substituted Equipment is acquired as herein provided it shall be subjected to this Agreement, subject, however, to the provisions of Section 3.4 hereof; and the Trustee and the Company shall execute a supplemental agreement in respect thereof describing the same and providing that said additional or substituted Equipment will become and be subject to the terms and condi-

tions hereof and said additional or substituted Equipment shall be part of the Trust Equipment subject to all the terms and conditions hereof in all respects as though it had been part of the original Trust Equipment herein described.

In the event that it may be deemed necessary or desirable to procure for the transportation services of the Company and to include in the trust hereby created other Equipment in lieu of any of the Equipment specifically described herein, the Company may cause such other Equipment to be sold, assigned, transferred and set over unto the Trustee, to be substituted under the trust.

SECTION 3.2. From time to time, when and as any of the Trust Equipment shall have been delivered to the Trustee or its agent, the Trustee upon Request shall (subject, however, to the provisions of Sections 3.3 and 3.4 hereof) pay to the Owner or Owners of the delivered Trust Equipment out of the Deposited Cash an amount which will equal not more than 80% of the aggregate Cost of the Trust Equipment so delivered to the Trustee.

SECTION 3.3. The Company, contemporaneously with any payment by the Trustee pursuant to Section 3.2 hereof, will pay to the Trustee the advance rental provided in Section 4.4(A)(2) hereof, and thereupon the Trustee shall, upon Request, pay to the Owner or Owners of the delivered Trust Equipment, by the use of such advance rental, the portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 3.2 hereof; the intention being that the Company shall ultimately pay not less than 20% of the final Cost of all the Trust Equipment, and the Trustee and the Company shall at any time if occasion arises adjust their accounts and payments to the end that the Trustee shall pay with Deposited Cash not more than 80% of such final Cost and the Company shall pay as advance rental the remainder, to be not less than 20% of such final Cost.

**SECTION 3.4.** The Trustee shall not pay out any Deposited Cash against the delivery of any of the Trust Equipment unless and until it shall have received:

(a) An Officer's Certificate stating that the Trust Equipment described and specified therein by number or numbers has been delivered to, and approved and accepted by, the Company, as agent for the Trustee, and has been marked in accordance with the provisions of Section 4.6 hereof;

(b) An invoice or invoices from the Owner or Owners and an Officer's Certificate which shall state that such Trust Equipment is Equipment as herein defined (or, in the case of additional or substituted Equipment, as set forth in any supplemental agreement) and that the Cost of such Trust Equipment is an amount therein specified;

(c) A bill or bills of sale of such Trust Equipment from the Owner or Owners thereof to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee that the title to the Trust Equipment described therein is free from all liens, security interests and encumbrances;

(d) An Opinion of Counsel that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in such opinion, to vest in the Trustee title to such Trust Equipment free from all liens, security interests and encumbrances; and

(e) In case of any Trust Equipment not specifically described herein, an Opinion of Counsel that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee and the Company and duly filed, recorded, registered and deposited in accordance with Section 6.4 hereof.

If the aggregate final Cost of the Trust Equipment shall be less than 125% of the aggregate principal amount of Trust Certificates issued hereunder, the Company will cause to be transferred to the Trustee by proper supplement hereto, subject to all the terms of this Agreement, additional Equipment of substantially as good material and construction as the Trust Equipment described specifically herein in such amount and of such Cost that the aggregate final Cost of the Trust Equipment will be at least 125% of the aggregate principal amount of the Trust Certificates issued hereunder, and, whether or not Deposited Cash is to be paid out in respect of such additional Equipment, will furnish to the Trustee in respect of such additional Equipment the documents set forth in the first paragraph of this Section 3.4.

SECTION 3.5. Interest, if any, allowed by the Trustee upon any moneys received by it under the provisions hereof and any interest (in excess of accrued interest paid from Deposited Cash at the time of purchase) or other profit accruing upon any investment of Deposited Cash as permitted by Section 7.8 hereof shall belong to the Company and be paid to it by the Trustee, as long as the Company shall not be known to the Trustee to be in default hereunder.

SECTION 3.6 Any Deposited Cash remaining in the hands of the Trustee after the delivery of all the Trust Equipment to be delivered pursuant to Section 3.1 and Section 3.4 hereof and payment therefor in the manner provided herein shall be applied by the Trustee toward payment of the principal amount of the next maturing Trust Certificates then outstanding, when and as the same shall become payable, and to the extent that such payments are so made by the Trustee out of such Deposited Cash the next succeeding installments of rental payable by the Company to the Trustee under Section 4.4(B)(4) hereof shall be correspondingly reduced.



## ARTICLE IV.

## LEASE OF TRUST EQUIPMENT TO THE COMPANY.

SECTION 4.1. The Trustee does hereby let and lease to the Company, for the term of 10 years from and after November 15, 1970, all the Trust Equipment.

SECTION 4.2. In the event that the Company shall, as provided in Sections 3.1 and 3.4 or Section 4.7 or Section 4.9 hereof, cause to be transferred to the Trustee other Equipment in addition to or in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 4.3. As and when any Equipment shall from time to time be transferred and delivered to the Company, as agent for the Trustee, the same shall, *ipso facto*, and without further instrument of lease or transfer, pass under and become subject to all the terms and provisions hereof.

SECTION 4.4. The Company hereby accepts the lease of all the Trust Equipment and will accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company will pay to the Trustee at its principal office in the City of Philadelphia, Pennsylvania (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, rent hereunder which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery and lease to the Company of any of the Trust Equipment):

(A) The Company shall pay to the Trustee, as hereinafter provided, as advance rental hereunder, sums which in the aggregate shall be equal to the difference between the aggregate Cost of the Trust Equipment (other than Trust Equipment subjected hereto pursuant to Section 4.7 or Section 4.9 or the last paragraph of Section 3.4 hereof) and the portion of such Cost to be provided out of the net proceeds (excluding premium and accrued dividends, if any) of the sale of the Trust Certificates, the intention being that, when all such Trust Equipment shall have been delivered to the Company, as agent for the Trustee, the Company shall have paid or shall pay to the Trustee, as advance rental hereunder, a sum equal to the amount by which the aggregate Cost of such Trust Equipment exceeds such net proceeds of the sale of the Trust Certificates. The Company will pay such advance rental as follows:

(1) At the time of issue and sale of the Trust Certificates a sum which, when added to the net proceeds (excluding premium or accrued dividends, if any) of the sale of the Trust Certificates deposited with the Trustee, will make the total sum deposited equal the aggregate principal amount of the Trust Certificates issued; and

(2) Upon delivery of any of such Trust Equipment a sum equal to the portion of the Cost of such delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 3.2 hereof, but not less than 20% of such Cost.

(B) In addition to such advance rental the Company shall pay to the Trustee (or in the case of taxes, assessments or other governmental charges, to the proper governmental authority) as hereinafter provided, as additional rental for the Trust Equipment, and whether or not at the time any thereof shall have been delivered to the Company, the following:

(1)(a) The necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein; and (b) an amount equal to any expenses incurred or loss of principal (including premium or interest accrued thereon at time of purchase) in connection with any purchase, sale or surrender for redemption by the Trustee of Government Securities;

(2) Any and all taxes, assessments and other governmental charges assessed or levied upon or on account of the income or property of the trust, or of this Agreement, which the Trustee as such may be required to pay;

(3) (a) The amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable; and (b) interest at the dividend rate from the due date, upon the amount of any installments of rental payable under this subparagraph (3) and the following subparagraph (4) which shall not be paid when due, to the extent legally enforceable; and

(4) The principal of the Trust Certificates, when and as the same shall become payable, whether upon the stated dates of maturity thereof or otherwise under the provisions thereof or hereof.

Nothing herein or in the Trust Certificates contained shall be deemed to impose on the Trustee or on the Company any obligation to pay to the holder of any Trust Certificate or dividend warrant any tax, assessment or governmental charge required by any present or future law of the United States of America or of any state, county, municipality or other taxing authority thereof to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate or dividend warrant. The Company shall not be required to pay any tax, assessment or governmental charge so long as it shall in good faith and by appropriate

legal proceedings contest the validity thereof, unless in the judgment of the Trustee the rights or interests of the Trustee or of the holders of the Trust Certificates or dividend warrants may be materially endangered thereby.

SECTION 4.5. At the termination of the lease provided herein and after all payments due or to become due from the Company hereunder shall have been completed and fully made to the Trustee, (1) such payments shall be applied and treated as purchase money and as the full purchase price of the Trust Equipment, (2) any moneys remaining in the hands of the Trustee after providing for all outstanding Trust Certificates and dividend warrants and after paying the expenses of the Trustee, including its reasonable compensation, shall be paid to the Company, (3) title to all the Trust Equipment shall vest in the Company and (4) the Trustee shall execute for record in public offices, at the expense of the Company, such instrument or instruments in writing as reasonably shall be requested by the Company in order to make clear upon public records the Company's title to all the Trust Equipment under the laws of any jurisdiction; *provided, however*, that until that time title to the Trust Equipment shall not pass to or vest in the Company, but title to and ownership of all the Trust Equipment shall be and remain in the Trustee, notwithstanding the delivery of the Trust Equipment to and the possession and use thereof by the Company.

SECTION 4.6. At or before the delivery to the Company of each unit of the Trust Equipment, there shall be plainly, distinctly, permanently and conspicuously painted or otherwise marked on each side of such unit the following words in letters not less than one inch in height:

“OWNED BY A BANK OR TRUST COMPANY UNDER  
A SECURITY AGREEMENT FILED UNDER THE  
INTERSTATE COMMERCE ACT, SECTION 20c.”

Such marks shall be such as to be readily visible and as to indicate plainly the Trustee's ownership of each unit of the Trust Equipment. In case prior to the termination of the lease provided for herein any of such marks shall at any time be removed, defaced or destroyed, the Company shall immediately cause the same to be restored or replaced. The Company shall not change or permit to be changed the reporting numbers of any of the Trust Equipment at any time covered hereby (or any reporting numbers which may have been substituted as herein provided), except in accordance with a statement of new reporting numbers to be substituted therefor which shall previously have been filed with the Trustee by the Company and which shall be filed, recorded, registered and deposited as provided in Section 6.4 hereof. If the Trustee so requests, the Company will furnish to the Trustee a statement setting forth the reporting number of each unit of the Trust Equipment, but the Trustee shall be under no duty to make any such request.

The Company will not allow the names of any persons, associations or corporations to be placed on any of the Trust Equipment as a designation which might be interpreted as a claim of ownership by the Company or anyone other than the Trustee; *provided, however*, that the Company may cause the Trust Equipment to bear the designation "P. & L. E.", "Pittsburgh and Lake Erie" or "Pittsburgh and Lake Erie Railroad Company" together with such insignia as the Company customarily displays upon the sides of other railroad equipment owned or leased by the Company which insignia will be of inferior size and/or in a subordinate position to that of one of the foregoing designations.

SECTION 4.7. The Company, during the continuance of this Agreement, shall maintain and keep all of the Trust Equipment in good order and proper repair, at its own cost and charge, and shall replace, at its own cost, any of the Trust Equipment that may be worn out, lost or destroyed with Equipment of substantially as good material

and construction and of a value at least equal to the Fair Value immediately prior to such wearing out, loss or destruction of such Trust Equipment so worn out, lost or destroyed, the value of such Equipment to be fixed at Cost if that be below market value, or at market value if that be below Cost; *provided, however*, that the Company may, pending such replacement, deposit with the Trustee, cash in an amount equal to such Fair Value of such Trust Equipment so worn out, lost or destroyed, any moneys so deposited to be held and applied as hereinafter in Section 4.9 provided. At the time of every such deposit the Company shall deliver to the Trustee an Officer's Certificate stating such Fair Value of the Trust Equipment so worn out, lost or destroyed, and such Officer's Certificate shall be full and complete protection to the Trustee. At the time of every such replacement the Company shall deliver to the Trustee an Officer's Certificate stating such Fair Value of the Trust Equipment so worn out, lost or destroyed, and the Cost and the then market value of the Equipment substituted therefor, and such documents as are provided for in Section 3.4 hereof. The rights and remedies of the Trustee to enforce or to recover any of the rental payments shall not be affected by reason of such wearing out, loss or destruction.

The Company will furnish to the Trustee, whenever required by the Trustee, and at least once in every calendar year following the calendar year in which occurs the first delivery of any of the Trust Equipment and during the continuance of the lease provided for herein, an Officer's Certificate stating (1) the amount, description and reporting numbers of the Trust Equipment then covered hereby and showing the Trust Equipment then in actual service, (2) the amount, description and reporting numbers of the Trust Equipment that may have become worn out, or that may have become unsuitable for use or lost or destroyed by accident or otherwise, since the date of the last preceding Officer's Certificate furnished pursuant to this Section 4.7, and (3) the amount, description

and reporting numbers of the Trust Equipment then undergoing repairs, other than running repairs, or then withdrawn from use for such repairs, and stating that in the case of all the Trust Equipment repainted or repaired since the date of the last preceding Officer's Certificate furnished pursuant to this Section 4.7 the marks and reporting numbers required by Section 4.6 hereof have been preserved, or that the same when repainted or repaired has been again marked and numbered as required thereby. The Trustee, by its agents, shall have the right, but shall be under no duty, to inspect the Trust Equipment once in every calendar year during the continuance of this Agreement.

SECTION 4.8. The Company, so long as it is not in default hereunder, shall be entitled to the possession of the Trust Equipment from and after delivery thereof to the Company, and the use thereof upon the lines of railroad owned or operated by the Company (either alone or jointly with another) or by any Subsidiary, or upon lines over which the Company or any Subsidiary shall have trackage or other operating rights, and the Company shall also be entitled to permit the use of the Trust Equipment upon connecting and other railroads in the usual interchange of traffic and upon connecting railroads and other railroads over which through service may from time to time be afforded, but only upon and subject to all the terms and conditions of this Agreement.

The Company shall not, without first obtaining the written consent of the Trustee, assign or transfer its rights hereunder, or transfer or sublet the Trust Equipment or any part thereof, except to a company all of whose capital stock is owned by the Company; and the Company shall not, without such written consent, except as provided in this Section 4.8, part with the possession of, or suffer or allow to pass out of its possession or control, any of the Trust Equipment. An assignment or transfer to a railroad company or other purchaser which shall acquire all or substantially all the lines of railroad

of the Company, and which, by execution of an appropriate instrument satisfactory to the Trustee, shall assume and agree to perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, shall not be deemed a breach of this covenant. The appointment of a receiver or receivers in equity or reorganization or a trustee or trustees in bankruptcy or reorganization for the Company or for its property shall not be deemed an unauthorized assignment if, prior to any action by the Trustee to exercise the remedies herein provided, such receiver or receivers or trustee or trustees shall be discharged within 30 days after his or their appointment or within a like period such receiver or receivers or trustee or trustees shall, pursuant to court order or decree, in writing duly assume and agree to pay or perform each and all of the obligations and covenants of the Company hereunder and under the guaranty endorsed on the Trust Certificates, in such manner that such obligations shall have the same status as obligations incurred by such receiver or receivers or trustee or trustees. The Trustee shall have the right to declare the lease provided for herein terminated in case of any unauthorized assignment or transfer of the Company's rights hereunder or in case of any unauthorized transfer or sublease of any of the Trust Equipment. The election of the Trustee to terminate the lease provided for herein shall have the same effect as the retaking of the Trust Equipment by the Trustee as hereinafter provided.

SECTION 4.9. Any units of the Trust Equipment which shall have become unsuitable in any respect or not needed for the use of the Company may be released from the provisions of this Agreement, and at any time hereafter until title thereto shall become vested in the Company, the Trustee will release and transfer such units to the Company or sell any such units of the Trust Equipment to be sold upon the filing with it of a Request and an Officer's Certificate



which shall describe such units, shall state that they have become unsuitable or not needed for the use of the Company, shall state the selling price thereof, if any, and shall specify the Cost and the then Fair Value thereof. No such release and transfer or sale shall be made unless and until the Company shall have deposited with the Trustee such selling price, if any, or Fair Value, whichever shall be greater.

Any moneys paid to the Trustee pursuant to this Section 4.9 or Section 4.7 hereof, hereinafter called "Replacement Funds", shall be received and held by the Trustee in trust hereunder pending delivery of additional Equipment. Upon the filing with it of a Request and an Officer's Certificate, which shall specify the kind and number of units of Equipment to be purchased and the Cost thereof, and shall state that such Equipment is of material and construction substantially as good as the Trust Equipment described specifically herein, such moneys in an amount not exceeding such Cost shall, upon receipt by the Trustee of certificates, bills of sale and Opinions of Counsel, all in like manner as provided in Section 3.4 hereof, be applied to the purchase of such Equipment.

SECTION 4.10. The Company will indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, other than those arising from the Trustee's own negligence, wilful default or bad faith, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and will comply in all respects with the laws of the United States of America and of all the states in which the Trust Equipment, or any thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Interstate Commerce Commission, the Department of Transportation and of all other commissions, boards and other legislative, executive, administrative, or judicial bodies or officers having power to regulate or supervise any of the Trust Equip-

ment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

## ARTICLE V.

### REMEDIES IN EVENT OF DEFAULT.

#### SECTION 5.1. In case

(a) the Company shall default in the payment of any part of the rental payable hereunder (including advance rental) for more than thirty (30) days after the same shall have become due and payable, or

(b) the Company shall make or suffer any unauthorized assignment or transfer of its rights hereunder or shall make any unauthorized transfer or sublease of any of the Trust Equipment, or, except as herein authorized, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such assignment or transfer or sublease to be cancelled by agreement of all parties having any interest therein and recover possession of such Trust Equipment within thirty (30) days after the Trustee shall have demanded in writing such cancellation and recovery of possession, or within said thirty (30) days to deposit with the Trus-

tee a sum in cash equal to the Fair Value of the Trust Equipment so assigned or transferred or subleased or the possession of which shall have been parted with otherwise than as herein authorized (any sum so deposited to be returned to the Company upon the cancellation of such assignment, transfer or sublease and the recovery of possession by the Company of such Trust Equipment), or

(c) the Company shall, for more than ninety (90) days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance,

(d) the lease herein shall be terminated by operation of law or pursuant to the last paragraph of Section 4.8 hereof,

then, in any such case (herein sometimes called an event of default), the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare to be due and payable forthwith the entire amount of the rentals (including any unpaid advance rental, but not including rentals required for the payment of dividends accruing after the date of such declaration) payable by the Company as set forth in Section 4.4 hereof and not theretofore paid, whereupon the entire amount of such rentals shall forthwith become and shall be due and payable immediately without further demand, together with interest at the dividend rate to the extent legally enforceable, on any portion thereof overdue; and the Trustee shall be entitled to recover judgment for the total amount so becoming payable by the Company, together with interest thereon at the dividend rate to the extent legally enforce-

able, and to collect such judgment out of any property of the Company wherever situated. Any and all moneys so collected by the Trustee shall be applied by it as hereinafter in Section 5.3 hereof provided.

In addition, in case one or more of the events of default shall happen, the Trustee in its discretion may, and upon the written request of the holders of not less than 25% in principal amount of the then outstanding Trust Certificates shall, by notice in writing delivered to the Company, declare the principal of all the Trust Certificates then outstanding to be due and payable, and thereupon the same shall become and be immediately due and payable.

SECTION 5.2. In case of the happening of any event of default, the Trustee may by its agents enter upon the railroads and premises of the Company and of any Subsidiary and retake possession of all or any part of the Trust Equipment and withdraw the same from said railroads and premises, retaining all payments which up to that time may have been made on account of rental for the Trust Equipment and otherwise, and shall be entitled to collect, receive and retain all unpaid *per diem*, mileage or other charges of any kind earned by the Trust Equipment or any part thereof, and may lease the Trust Equipment or any part thereof, or with or without retaking possession thereof (but only after declaring due and payable the entire amount of rentals payable by the Company as provided for in Section 5.1 hereof) may sell the same or any part thereof, free from any and all claims of the Company at law or in equity, in one lot and as an entirety or in separate lots, insofar as may be necessary to perform and fulfill the trust hereunder, at public or private sale, for cash or upon credit, in its discretion, and may proceed otherwise to enforce its rights and the rights of the holders of the Trust Certificates in the manner herein provided. Upon any such sale, the Trustee itself may bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place

and at such time as the Trustee may specify, or as may be required by law, and without gathering at the place of sale the Trust Equipment to be sold, and in general in such manner as the Trustee may determine, but so that the Company may and shall have a reasonable opportunity to bid at any such sale. Upon such retaking possession or withdrawal or lease or sale of the Trust Equipment, the Company shall cease to have any rights or remedies in respect of the Trust Equipment hereunder, and all such rights and remedies shall be deemed thenceforth to have been waived and surrendered by the Company, and no payments theretofore made by the Company for the rent or use of the Trust Equipment or any of it shall, in case of the happening of any such event of default and any such retaking possession, withdrawal, lease or sale by the Trustee, give to the Company any legal or equitable interest or title in or to the Trust Equipment or any of it or any cause or right of action at law or in equity in respect of the Trust Equipment against the Trustee or the holders of the Trust Certificates. No such retaking possession, withdrawal, lease or sale of the Trust Equipment by the Trustee shall be a bar to the recovery by the Trustee from the Company of rentals then or thereafter due and payable, and the Company shall be and remain liable for the same until such sums shall have been realized as, with the proceeds of the lease or sale of the Trust Equipment, shall be sufficient for the discharge and payment in full of all the items mentioned in Section 4.4 hereof (other than dividends or interest not then accrued), whether or not they shall have then matured. The holders of a majority in principal amount of the then outstanding Trust Certificates shall have the right from time to time to direct which of the proceedings above provided for shall be taken for the enforcement of the remedies contained herein.

SECTION 5.3. If, in case of the happening of any event of default, the Trustee shall exercise any of the powers conferred upon it by Sections 5.1 and 5.2 hereof, all pay-

ments made by the Company to the Trustee after such event of default, and the proceeds of any judgment collected from the Company by the Trustee, and the proceeds of every sale or lease by the Trustee hereunder of any of the Trust Equipment, together with any other sums which may then be held by the Trustee under any of the provisions hereof (other than sums held in trust for the payment of specific Trust Certificates or dividends) shall be applied by the Trustee to the payment in the following order of priority: (a) of all proper charges, expenses or advances made or incurred by the Trustee in accordance with the provisions of this Agreement, and (b) of the dividends then due, and of the principal of all the outstanding Trust Certificates whether such Trust Certificates shall have then matured by their terms or not, with interest at the dividend rate to the date of payment on overdue dividends and on principal from the last preceding dividend date, to the extent legally enforceable, all such payments to be in full if such proceeds shall be sufficient, and if not sufficient, then *pro rata* without preference between principal and dividends.

After all such payments shall have been made in full, the title to any of the Trust Equipment remaining unsold shall be conveyed by the Trustee to the Company, its nominee or nominees, free from any further liabilities or obligations to the Trustee hereunder. If after applying all such sums of money realized by the Trustee as aforesaid there shall remain any amount due to the Trustee under the provisions hereof, the Company will pay the amount of such deficit to the Trustee. If after applying as aforesaid the sums of money realized by the Trustee there shall remain a surplus in the possession of the Trustee, such surplus shall be paid to or upon the order of the Company.

SECTION 5.4. If at any time after the principal amount of all the Trust Certificates shall have been declared and become due and payable, or if at any time after the entire amount of rentals shall have been declared and become due and payable, all as in Section 5.1 hereof provided, but

before November 15, 1980, all arrears of rent (with interest at the dividend rate upon any overdue installments to the extent legally enforceable), the expenses and reasonable compensation of the Trustee, together with all expenses of the trust occasioned by the Company's default, and all other sums which shall have become due and payable by the Company hereunder (other than the principal amount of Trust Certificates and any other rental installments which shall not at the time have matured, other than by declaration, according to their terms) shall be paid by the Company or funds for the payment thereof shall be in the hands of the Trustee, before any sale or lease by the Trustee of any of the Trust Equipment, and every other default in the observance or performance of any covenant or condition hereof shall be made good or secured to the satisfaction of the Trustee, or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Trustee, if so requested by the holders of a majority in principal amount of the Trust Certificates then outstanding and which shall not have matured (other than by declaration) according to their terms, shall by written notice to the Company waive the default by reason of which there shall have been such declaration or declarations and the consequences of such default, and this Agreement, will, upon such waiver, be and continue in full force and effect; but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 5.5 No retaking of possession of the Trust Equipment by the Trustee, or any withdrawal, lease or sale thereof, nor any action or failure or omission to act against the Company or in respect of the Trust Equipment, on the part of the Trustee or on the part of the holder of any Trust Certificate or dividend warrant, nor any delay or indulgence granted to the Company by the Trustee or by any such holder, shall affect the obligations of the Company hereunder or under the guaranty endorsed on the Trust Certificates. The Company hereby waives presentation and demand in respect of any of the Trust

Certificates and dividend warrants and waives notice of presentation, of demand and of any default in the payment of the principal amount of and dividends upon the Trust Certificates. The Trustee may at any time upon notice in writing to the Company apply to any court of competent jurisdiction for instructions as to the application and distribution of the property held by it.

SECTION 5.6. In case the Trustee shall rightfully demand possession of the Trust Equipment pursuant to the provisions hereof, and shall reasonably designate a point or points upon the railroad of the Company or of any Subsidiary for the delivery of the Trust Equipment to it, the Company shall at its own expense forthwith and in the usual manner cause the Trust Equipment to be removed to such point or points on such railroads as shall be designated by the Trustee and shall there deliver or cause to be delivered the same to the Trustee, or the Trustee may at its option keep the Trust Equipment on any of the lines of railroad or premises of the Company or of any Subsidiary until the Trustee shall have leased, sold or otherwise disposed of the same, and for such purpose the Company agrees to furnish without charge for rent or storage the necessary facilities at any convenient point or points selected by the Trustee. The performance of the foregoing covenant is of the essence of this Agreement and upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company requiring the specific performance thereof.

SECTION 5.7. The remedies in this Agreement provided in favor of the Trustee and the holders of the Trust Certificates, or any of them, shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in their favor existing at law or in equity; *provided, however*, that the rights, powers, and remedies in this Agreement provided are subject to applicable provisions of any bankruptcy or insolvency laws or laws affecting enforcement of creditors' rights.



## ARTICLE VI.

### ADDITIONAL COVENANTS AND AGREEMENTS BY THE COMPANY.

SECTION 6.1. The Company will make payment of the reasonable expenses and compensation of the Trustee, including any thereof incurred in connection with the enforcement of any of the provisions hereof, and of all taxes, assessments and other governmental charges herein mentioned for which the Trustee, as such, may be liable and of the rentals and of the other amounts provided for herein.

SECTION 6.2. The Company guarantees that the holder of each of the Trust Certificates shall receive the principal amount thereof in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, when and as the same shall become due and payable, in accordance with the provisions thereof or of this Agreement (and, if not so paid, with interest thereon at the dividend rate to the extent legally enforceable), and shall receive dividends thereon in like money at the rate specified therein from November 15, 1970, to the date of maturity of such Trust Certificate, at the times and place and otherwise as expressed in the Trust Certificates and in the dividend warrants attached to Trust Certificates with dividend warrants (and, if not so paid, with interest thereon at the dividend rate to the extent legally enforceable); and the Company will endorse upon each of the Trust Certificates, at or before the issuance and delivery thereof by the Trustee, its guaranty of the prompt payment of the principal amount thereof and of the dividends thereon, in substantially the forms hereinbefore set forth. Said guaranty so endorsed shall be signed in the name and on behalf of the Company by the facsimile signature of its President or one of its Vice-Presidents. In case the officer of the Company whose fac-

simile signature appears on said guaranty shall cease to be such officer of the Company before the Trust Certificates shall have been issued and delivered by the Trustee, or shall not have been such officer on the date of the Trust Certificates, said guaranty shall, nevertheless, be as effective and binding upon the Company as though the person whose facsimile signature appears on said guaranty had not ceased to be such officer of the Company or had been such officer on the date of the Trust Certificates.

SECTION 6.3. The Company will pay and discharge, or cause to be paid and discharged, or make adequate provision for the satisfaction or discharge of, any debt, tax, charge, assessment, obligation or claim required by law to be paid upon the Trust Equipment which if unpaid might become a lien or charge upon or against any of the Trust Equipment, except upon the leasehold interest of the Company therein; but this provision shall not require the payment of any such debt, tax, charge, assessment, obligation or claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings, unless such contest will in the judgment of the Trustee materially endanger the rights or interests of the Trustee or of the holders of the Trust Certificates.

SECTION 6.4. The Company will pay the expenses incident to the preparation and execution of the Trust Certificates and dividend warrants, or connected with the preparation, execution, recording, rerecording, filing, refiling, registering, reregistering, depositing and re-depositing hereof and of any instruments executed under the provisions hereof with respect to the Trust Equipment. The Company with all convenient speed will cause this Agreement and all supplements thereto to be duly filed, recorded, registered and deposited in all public offices as may be required by law for the full protection of the title of the Trustee and the rights of the holders of the Trust Certificates, so that this Agreement and all said

other instruments shall at all times be duly filed, recorded, registered and deposited. The Company will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit any and all further instruments required by law or reasonably requested by the Trustee for the purposes of proper protection of the title of the Trustee and the rights of the holders of the Trust Certificates and of fully carrying out and effectuating this Agreement and the intent hereof; and the Company will promptly furnish to the Trustee certificates or other evidences of filing, recording, registering and depositing pursuant to the last preceding sentence, and of any other such filing, recording, registering and depositing and an Opinion or Opinions of Counsel with respect thereto.

SECTION 6.5. The Company will from time to time do all such acts and execute all such instruments of further assurance as it shall be reasonably requested by the Trustee to do or execute for the purpose of fully carrying out and effectuating this Agreement and the intent hereof.

SECTION 6.6. The Company will make payment of the rentals on account of the Trust Equipment as provided in this Agreement notwithstanding that any of the Trust Certificates and dividend warrants shall have been acquired by the Company or shall not have been presented for payment.

SECTION 6.7. Any and all Trust Certificates and dividend warrants acquired by the Company shall be presented to the Trustee for payment on the respective due dates thereof or, at the option of the Company, may be presented to the Trustee for cancellation prior to such dates.

## ARTICLE VII.

## THE TRUSTEE.

SECTION 7.1. The Trustee hereby accepts the trusts imposed upon it by this Agreement, and covenants and agrees to perform the same as herein expressed.

SECTION 7.2. The Trustee covenants and agrees to apply and distribute the rentals received by it under Section 4.4(B) hereof (other than sums restored to Deposited Cash from rentals pursuant to Section 4.4(B)(1)(b) hereof) when and as the same shall be received, and to the extent that such rentals shall be sufficient therefor, for the purposes specified in said Section 4.4(B).

In any case where the date of maturity of dividend or principal shall be a Sunday or shall be a legal holiday at the place where payment thereof is to be made, or shall be a date on which banking organizations at the place where such payment is to be made are authorized by law to close, then payment of such dividend or of such principal, as the case may be, may be made on the next succeeding business day with the same force and effect as if made on the specified date of maturity and, if so paid, no interest shall accrue thereon for the period after such specified date.

SECTION 7.3. The Trustee will cause to be kept at its principal office in the City of Philadelphia, Pennsylvania, books for the registration, exchange, and transfer of the Trust Certificates; and upon presentation for any of such purposes the Trustee will register or cause to be registered, exchange or cause to be exchanged, or transfer or cause to be transferred, as the case may be, as hereinbefore provided, under such reasonable regulations as the Trustee may prescribe, any of the Trust Certificates which are surrendered for any of such purposes at said office or at the office of the Company in the City of Pittsburgh, Penn-

sylvania but not the dividend warrants, if any, attached thereto.

SECTION 7.4. The Trustee will not be required to undertake any act or duty in the way of insuring, taking care of or taking possession of the Trust Equipment or to undertake any other act or duty under this Agreement until fully indemnified by the Company or by one or more of the holders of the Trust Certificates against all liability and expenses. The Trustee will not be responsible for the filing, refiling, recording, rerecording, registering, re-registering, depositing or redepositing of this Agreement or of any supplement hereto. The Trustee may issue and deliver Trust Certificates in advance of such filing, recording, registering or depositing. In accepting delivery of and making payment for the Trust Equipment hereunder, or in accepting any cash payable hereunder in respect of Trust Equipment, the Trustee may rely upon and shall be fully protected by the certificates, bills of sale and Opinions of Counsel to be furnished to it under Sections 3.4, 4.7 or 4.9 hereof, as the case may be, and shall not be required to make any further investigation of or inquiry concerning the matters covered thereby.

SECTION 7.5. The Trustee shall be under no obligation to take any action for the execution or enforcement of the trust hereby created unless requested thereunto in writing by the holders of not less than 25% in principal amount of the then outstanding Trust Certificates and unless indemnified to its satisfaction against expense and liability with respect thereto, and unless also furnished with proof satisfactory to it as to the ownership of the Trust Certificates in respect of which any such request may be made; but neither any request (except as herein otherwise expressly provided) nor this provision shall affect any discretion herein given to the Trustee to determine whether it shall take action in respect of any default hereunder or what action it shall take.

SECTION 7.6. No holder of any Trust Certificate or dividend warrant issued hereunder shall have any right to institute any suit, action or proceeding for the execution and enforcement of the trust hereby created unless, after the aforesaid request in writing by the holders of not less than 25% in aggregate principal amount of the then outstanding Trust Certificates shall have been made to the Trustee, and after indemnity satisfactory to it shall have been provided, and after 90 days shall have elapsed after receipt by the Trustee of such request, it shall decline, fail or neglect to institute any proceedings pursuant thereto. Neither the provisions of this Section 7.6 nor the provisions of Section 7.5 hereof shall affect or limit in any way the obligations of the Company under its guaranty hereinabove provided or the rights of the holders of Trust Certificates or dividend warrants to institute suit for the enforcement of payments due under said guaranty in respect of the Trust Certificates or dividend warrants.

SECTION 7.7. The Trustee may for all purposes conclusively assume that the Company is not in default under the terms hereof until notified in writing to the contrary by the holders of at least 10% in aggregate principal amount of the then outstanding Trust Certificates, which notice shall distinctly specify the event of default desired to be brought to the attention of the Trustee. As to any fact or matter the manner of determining which is not specifically prescribed herein, the Trustee may for all purposes rely upon an Officer's Certificate as to such fact or matter. The Trustee shall not incur any liability to anyone in relying conclusively on, and in acting upon, any notice, consent, order, certificate, warrant or other paper or instrument believed by it to be genuine or authentic and to be signed by the proper party or parties.

SECTION 7.8. Any money at any time paid to or held by the Trustee hereunder until paid out by the Trustee as herein provided may be carried by the Trustee on deposit

with itself, without liability for interest thereon save as may be agreed upon between the Trustee and the Company.

At any time, and from time to time, if at the time there shall be no default, known to the Trustee, under the terms of this Agreement or of any supplement hereto, the Trustee, upon Request, shall invest and reinvest Deposited Cash and Replacement Funds as defined in Section 4.9 hereof held by it in Government Securities, at such prices, including any premium and accrued interest, as are set forth in such Request, such Government Securities to be held by the Trustee in trust for the benefit of the holders of the Trust Certificates and dividend warrants.

The Trustee shall upon Request, or the Trustee may in the event funds are required for payment against delivery of Trust Equipment, sell such Government Securities, or any portion thereof, and restore to Deposited Cash or Replacement Funds, as the case may be, the proceeds of any such sale up to the amount paid for such Government Securities including accrued interest.

The Trustee shall restore to Deposited Cash or Replacement Funds, as the case may be, out of rent received by it for that purpose under the provisions of Section 4.4(B)(1) hereof, an amount equal to any expenses incurred in connection with any purchase or sale of Government Securities and also an amount equal to any loss of principal incident to the sale or redemption of any Government Securities for a sum less than the amount paid therefor, including accrued interest. The Company, if not in default under the terms hereof or of any supplement hereto, shall be entitled to receive any profit which may be realized from any sale or redemption of Government Securities.

SECTION 7.9. The Trustee shall not be liable to anyone for any delay in the delivery of any of the Trust Equipment, or for any default on the part of the Owner thereof or of the Company, or for any defect in any of the Trust

Equipment or in the title thereto, nor shall anything herein be construed as a warranty on the part of the Trustee in respect thereof or as a representation in respect of the value thereof or in respect of the title thereto.

The Trustee may perform its powers and duties hereunder by or through such attorneys, agents and servants as it shall appoint, and shall be entitled to rely upon the advice of counsel (who may be counsel to the Company), and shall be answerable for only its own acts, negligence and wilful defaults and not for the default or misconduct of any attorney, agent or servant appointed by it with reasonable care. The Trustee shall not be responsible in any way for the recitals herein contained or for the execution or validity of this Agreement or of the Trust Certificates (except for its own execution thereof), or for the guaranty by the Company, or for any mistake of fact or law.

The Trustee shall be entitled to receive payment of all of its expenses and disbursements hereunder, including reasonable counsel fees, and to receive reasonable compensation for all services rendered by it in the execution of the trust hereby created, all of which shall be paid by the Company.

The Trustee in its individual capacity may own, hold and dispose of Trust Certificates and dividend warrants with the same rights which it would have if it were not Trustee.

Upon Request, any moneys held by the Trustee which shall have been deposited or are held for the payment of the principal of or dividends on any Trust Certificates remaining unclaimed for six years after the date of maturity of such Trust Certificates or the date such dividends were due and payable, as the case may be, shall be repaid by the Trustee to the Company, and all liability of the Trustee with respect to such moneys shall thereupon cease and the holders of such Trust Certificates and



dividend warrants shall thereafter be entitled to look only to the Company for payment thereof; *provided, however*, that the Trustee, before being required to make any such repayment shall, at the expense of the Company, cause notice that said moneys have not been claimed and that after a date specified therein which shall be not less than thirty days after the date of publication, any unclaimed balance of such moneys then remaining upon deposit with the Trustee will be repaid to the Company, to be published once in a daily newspaper printed in the English language and published in the City of Philadelphia, Pennsylvania. In no event shall the holders of such Trust Certificates and dividend warrants be entitled to interest upon such moneys whether held by the Trustee or so repaid to the Company.

Any moneys at any time held by the Trustee hereunder shall, until paid out or invested by the Trustee as herein provided, be held by it in trust as herein provided for the benefit of the holders of the Trust Certificates and dividend warrants.

SECTION 7.10. If at any time the Trustee or any successor to it in the trust hereby created shall desire to divest itself of title to the Trust Equipment and to terminate its duties and obligations and rights hereunder and under the Trust Certificates, it shall so notify the Company in writing, and the Company shall thereupon designate in writing to the Trustee a bank or a trust company, qualified as below specified, to serve until a successor is appointed by the holders of Trust Certificates as hereinafter provided, to which may be assigned the entire right, title and interest of the Trustee or such successor in the Trust Equipment, and in which may be vested the rights, powers, duties and obligations of the Trustee hereunder and under the Trust Certificates. Upon the transfer and delivery of all moneys, Government Securities in which any of said moneys may be then invested, if any, and Trust Equipment held by the retiring trustee,

and the execution by the retiring trustee of such instruments of transfer as may be reasonably requested by the successor trustee and upon acceptance by the successor trustee of the assignment and of the trust, the retiring trustee shall be relieved and discharged of all the title, rights, powers, duties and obligations of the trust hereunder and under the Trust Certificates, and the same shall become vested in such successor trustee and every provision hereof applicable to the retiring trustee shall apply to such successor trustee with like effect as if such successor trustee had been originally named herein as the trustee hereunder and under the Trust Certificates. In the event that the Company shall fail to designate such a successor trustee by instrument in writing delivered to the retiring trustee within two weeks from the time of receiving such notice in writing from the retiring trustee, the retiring trustee may thereupon designate such successor trustee (or apply to any court of competent jurisdiction for the appointment of a successor trustee). The foregoing provisions are, however, subject to the right of the holders of the majority in aggregate principal amount of the then outstanding Trust Certificates by an instrument in writing to appoint any successor trustee, if such appointment is made within one year from the date of giving of such notice to the Company. The Company will execute all writings recognizing the transfer of title as aforesaid and all instruments of further assurance or otherwise as reasonably may be requested by the successor trustee in the premises, and will do and perform any and all acts necessary to establish and maintain the title and rights of the successor trustee in and to the Trust Equipment. Every successor trustee shall be a bank or a trust company doing business in the City of Philadelphia, Pennsylvania, or in the Borough of Manhattan, City and State of New York, having a capital and surplus aggregating at least \$50,000,000, if there be such bank or trust company willing and able to accept the trust upon reasonable and customary terms and duly qualified to act as such trustee.

SECTION 7.11. Any corporation resulting from any merger or consolidation to which the Trustee or any successor to it shall be a party, or any corporation in any manner succeeding to all or substantially all of the business of the Trustee or any successor trustee, provided such corporation shall be a bank or trust company doing business in the City of Philadelphia, Pennsylvania, or in the Borough of Manhattan, City and State of New York, and shall have a capital and surplus aggregating at least \$50,000,000, shall be the successor trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

## ARTICLE VIII.

### MISCELLANEOUS.

SECTION 8.1. Any request or other instrument provided by this Agreement to be signed or executed by holders of Trust Certificates may be in any number of concurrent instruments of similar tenor, and may be executed by such holders in person or by an agent or attorney appointed by an instrument in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent or attorney, or of the holding by any person of Trust Certificates, shall be sufficient for any purpose hereof and shall be conclusive in favor of the Trustee with regard to any action taken by the Trustee under such request or other instrument if made in the following manner, *viz.*:

(a) The fact and date of the execution by any person of any such request or of any other instrument in writing may be proved by the affidavit of a witness to such execution, or by the certificate of any notary public or of any other officer authorized to take acknowledgments of deeds to be recorded in the state where the acknowledgment may be taken, certifying

that the person signing such request or other instrument acknowledged to him the execution thereof.

(b) The fact of the holding of a Trust Certificate or Trust Certificates with dividend warrants not registered as to principal held by any such person and the amount and serial number of such Trust Certificate or Trust Certificates, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank or other depository, wheresoever situated, whose certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with or exhibited to such depository the Trust Certificate or Trust Certificates with dividend warrants numbered and described in such certificate. The Trustee may presume the continuance of any such holding unless and until it shall receive proof satisfactory to it to the contrary.

(c) The ownership of Trust Certificates with dividend warrants registered as to principal and of fully registered Trust Certificates shall be determined by the registry books to be kept as provided in Section 7.3 hereof.

SECTION 8.2, Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates and dividend warrants, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates and dividend warrants.

It is expressly understood and agreed that the obligations, covenants and agreements of the Company contained

in this Agreement or in the guaranty endorsed upon the Trust Certificates are solely corporate obligations and that no personal liability whatever shall attach to or shall be incurred by, or shall be enforced against, any incorporator or any past, present or future stockholder, director or officer of the Company, or any such incorporator, stockholder, director or officer of any successor corporation, under or by reason of any of the obligations, covenants or agreements contained in this Agreement or in said guaranty, or to be implied therefrom.

SECTION 8.3. Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

SECTION 8.4. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail to (a) in the case of the Company, P&LE Terminal Building, Smithfield and Carson Streets, Pittsburgh, Pennsylvania 15219, or such other address as may hereafter be furnished to the Trustee in writing by the Company, and (b) in the case of the Trustee, 15th and Chestnut Streets, Philadelphia, Pennsylvania 19101, or such other address as may hereafter be furnished to the Company in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company or the Trustee as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 8.5. This Agreement has been simultaneously executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

SECTION 8.6. This Agreement shall be deemed to have been executed on the date of the acknowledgment hereof

by the officer of the Trustee who signed it on behalf of the Trustee.

SECTION 8.7. The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and Section 148 of the Railway Act of Canada.

IN WITNESS WHEREOF, the parties hereto have duly set their hands and seals, and the Company and the Trustee have caused their names to be signed thereto by their officers thereunto duly authorized and their corporate seals, duly attested, to be hereunto affixed as of the day and year first written.

THE FIRST PENNSYLVANIA BANKING  
AND TRUST COMPANY,

Trustee



ASSISTANT Vice-President.

J. E. RENNER

Attest:

  
Assistant Secretary.  
D. P. DORRIAN

THE PITTSBURGH AND LAKE ERIE  
RAILROAD COMPANY

  
President.

Attest:

  
Assistant Secretary.

COMMONWEALTH OF PENNSYLVANIA }  
COUNTY OF PHILADELPHIA } ss.:

On this 17<sup>th</sup> day of November, 1970, before me personally appeared J. E. RENNERT, to me personally known, who, being by me duly sworn, says that he is a Vice <sup>ASSISTANT</sup> President of The First Pennsylvania Banking and Trust Company, a corporation named in the foregoing instrument, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and date in my certificate above written.

I am not a stockholder, officer or director of the above-named corporation.

*Catherine D. Burns*

(NOTARIAL SEAL)

Notary Public  
Philadelphia, Pa.  
My Comm. Expires 12/31/73

COMMONWEALTH OF PENNSYLVANIA }  
COUNTY OF **PHILADELPHIA** } ss.:

On this *18<sup>th</sup>* day of *November*, 1970, before me personally appeared H. G. ALLYN, JR., to me personally known, who, being by me duly sworn, says that he is President of The Pittsburgh and Lake Erie Railroad Company, a corporation named in the foregoing instrument, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of the Executive Committee of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and date in my certificate above written.

I am not a stockholder, officer or director of the above-named corporation.

(NOTARIAL SEAL)

*William J. O'Neill*

WILLIAM J. O'NEILL

Notary Public, Philadelphia, Philadelphia Co.  
My Commission Expires June 26, 1972



**Schedule A**

<u>Number of Units</u>	<u>Description</u>	<u>Reporting Numbers</u>	<u>Cost</u>
95	50' 55-ton rebuilt box cars with 10' doors	P&LE 32000-32094	\$1,066,945
101	50' 55-ton rebuilt box cars with 10' doors and load di- viders	P&LE 32100-32200	1,193,921
150	52' 6" 70-ton rebuilt gon- dola cars with roller bear- ings	P&LE 14340-14489	1,245,000
Total Cost .....			<u>\$3,505,866</u>

The above equipment was rebuilt under Owners Equipment Construction Account, T. F. O'Connell and K. M. Phillips, Owners, and is presently under temporary lease to the Company. Said equipment was rebuilt during the period March 1, 1970 through June 30, 1970.

**Schedule B**

<i><u>Number of Units</u></i>	<i><u>Description</u></i>	<i><u>Reporting Numbers</u></i>	<i><u>Cost</u></i>
365	50' 55-ton rebuilt box cars with 10' doors and roller bearings	P&LE 25550-25914	\$4,001,130

The above equipment was rebuilt in Company shops with Company funds during the period March 1, 1970 through October 31, 1970.